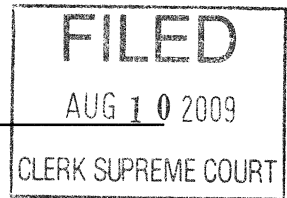


IN THE SUPREME COURT OF IOWA



IN THE MATTER OF IOWA RULES  
OF CIVIL PROCEDURE 1.715,  
1.903(3), 1.954, 1.1701, 1.1901  
FORMS 12, 13, 14 and 15

REPORT OF THE  
SUPREME COURT

TO: THE HONORABLE KEITH A. KREIMAN, CHAIR OF THE SENATE  
JUDICIARY COMMITTEE OF THE 2009 REGULAR SESSION OF THE  
EIGHTY-THIRD GENERAL ASSEMBLY OF THE STATE OF IOWA.

Pursuant to Iowa Code sections 602.4201 and 602.4202 (2009), the  
Supreme Court of Iowa has approved and reports on this date to the Chair of  
the Senate Judiciary Committee the adoption of Iowa Rules of Civil Procedure  
1.715, 1.903(3), 1.954, 1.1701, 1.1901 Forms 12, 13, 14 and 15. These  
amendments shall take effect October 9, 2009.

Dated this 10<sup>th</sup> day of August, 2009.

Respectfully submitted,

THE SUPREME COURT OF IOWA

By Marsha Ternus  
Marsha Ternus, Chief Justice

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee, hereby  
acknowledge delivery to me on the \_\_\_ day of \_\_\_\_\_, the Report of the  
Supreme Court pertaining to Iowa Rules of Civil Procedure 1.715, 1.903(3),  
1.954, 1.1701, 1.1901 Forms 12, 13, 14 and 15.

\_\_\_\_\_  
Chair of the Senate Judiciary Committee

**Please retain the copy and sign and return the original to: The Iowa  
Supreme Court Clerk's Office, Iowa Judicial Branch Building, 1111 East  
Court Avenue, Des Moines, IA 50319.**

## CHAPTER 1

### IOWA RULES OF CIVIL PROCEDURE

#### **Rule 1.715 Deposition subpoena.**

**1.715(1)** On application of any party, or proof of service of a notice to take depositions under rule 1.707 or rule 1.710, the clerk of court where the action is pending shall issue subpoenas for persons named in and described in said notice of application. Subpoenas may also be issued as provided by statute or by rule 1.701.

**1.715(2)** No resident of Iowa shall be subpoenaed to attend more than 50 miles from~~out of the county~~ where the deponent resides, or is employed, or transacts business in person.

## CHAPTER 1

### RULES OF CIVIL PROCEDURE

**1.903(3)** *Court reporter memorandum.* Promptly after reporting a proceeding a court reporter shall file a memorandum that includes all of the following:

- a.* The type of proceeding that was reported.
- b.* The date(s) on which the proceeding occurred.
- c.* The name of the court reporter who reported the proceeding.
- d.* The name of the judge who presided over the proceeding.
- e.* The reporting fee for the proceeding.

The court reporter shall use the court reporter memorandum form found in rule 1.1901, form 12. The form shall be signed by the court reporter. The court reporter is not required to serve the memorandum on the parties. The district court clerk shall enter the memorandum on the docket. This memorandum shall constitute the certification required by Iowa Code section 624.10.

## CHAPTER 1

### IOWA RULES OF CIVIL PROCEDURE

**Rule 1.954 Judgment on the pleadings.** ~~Any party may, at any time, on motion, have any judgment to which that party is entitled under the uncontroverted facts stated in all the pleadings, or on any portion of that party's claim or defense which is not controverted, leaving the action to proceed as to any other matter of which such judgment does not dispose. After the pleadings a party may move for judgment on the pleadings.~~

**CHAPTER 1**  
**RULES OF CIVIL PROCEDURE**

**Rule 1.1701. Subpoena.**

**1.1701(1) Form and contents.**

*a. Requirements:* Every subpoena must:

(1) state the court from which it issued;

(2) state the title of the action and its docket number;

(3) command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or permit the inspection of premises; and

(4) set out the text of rules 1.1701(4) and 1.701(5).

*b. Command to attend a deposition; notice of the recording method.* A subpoena commanding attendance at a deposition must state the method for recording the testimony.

*c. Combining or separating a command to produce or to permit inspection; specifying the form for electronically stored information.* A command to produce documents, electronically stored information, or tangible things or to permit the inspection of premises may be included in a subpoena commanding attendance at a deposition, hearing, or trial, or may be set out in a separate subpoena. A subpoena may specify the form or forms in which electronically stored information is to be produced.

*d. Command to produce; included obligations.* A command in a subpoena to produce documents, electronically stored information, or tangible things requires the responding party to permit inspection, copying, testing, or sampling of the materials.

*e. Forms for subpoenas.* Subpoena forms can be found in rule 1.1901, Form 13, 14 and 15.

**1.1701(2) Issued by whom.** The clerk must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete it before service. A request may be made either orally or in writing. An attorney licensed or otherwise authorized to practice law in Iowa also may issue and sign a subpoena as an officer of the court.

**1.1701(3) Service.**

*a. By whom; tendering fees; serving a copy of certain subpoenas.* Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering a copy to the named person and, if the subpoena requires that person's attendance and, if demanded, tendering the

1 fees for one day's attendance and their traveling fees to and from the court. If  
2 the subpoena commands the production of documents, electronically stored  
3 information, or tangible things or the inspection of premises before trial, then  
4 before it is served, a notice must be served on each party.

5 *b. Permissible place of service.* A subpoena may be served at any place:

6 (1) within the State of Iowa;

7 (2) that the court authorizes on motion and for good cause, if a statute  
8 so provides.

9 *c. Proof of service.* Proving service, when necessary, requires filing with  
10 the issuing court a statement showing the date and manner of service and the  
11 names of persons served. The server must certify the statement in accordance  
12 with Iowa Code section 622.1.

13 **1.1701(4) Protecting a person subject to a subpoena.**

14 *a. Avoiding undue burden or expense; sanctions.* A party or attorney  
15 responsible for issuing and serving a subpoena must take reasonable steps to  
16 avoid imposing undue burden or expense on a person subject to the subpoena.  
17 The issuing court must enforce this duty and impose an appropriate sanction,  
18 which may include lost earnings and reasonable attorney's fees, on a party or  
19 attorney who fails to comply.

20 *b. Command to produce materials or permit inspection.*

21 (1) *Appearance not required.* A person commanded to produce  
22 documents, electronically stored information, or tangible things, or to permit  
23 the inspection of premises, need not appear in person at the place of  
24 production or inspection unless also commanded to appear for a deposition,  
25 hearing, or trial.

26 (2) *Objections.* A person commanded to produce documents or tangible  
27 things or to permit inspection may serve on the party or attorney designated in  
28 the subpoena a written objection to inspecting, copying, testing or sampling  
29 any or all of the materials or to inspecting the premises, or to producing  
30 electronically stored information in the form or forms requested. The objection  
31 must be served before the earlier of the time specified for compliance or 14  
32 days after the subpoena is served. If an objection is made, the following rules  
33 apply:

34 1. At any time, on notice to the commanded person, the serving party  
35 may move the issuing court for an order compelling production or inspection.

36 2. These acts may be required only as directed in the order, and the  
37 order must protect a person who is neither a party nor a party's officer from  
38 significant expense resulting from compliance.

39 *c. Attendance.* Any party shall be permitted to attend at the same time  
40 and place and for the same purposes specified in the subpoena. No prior  
41 notice of intent to attend is required.

1           d. *Quashing or modifying a subpoena.*

2           (1) *When required.* On timely motion, the issuing court must quash or  
3 modify a subpoena that:

4           1. fails to allow a reasonable time to comply;

5           2. requires a person who is neither a party nor a party's officer to travel  
6 more than 50 miles from where that person resides, is employed, or regularly  
7 transacts business in person, except that a person may be ordered to attend  
8 trial anywhere within the state in which the person is served with a subpoena;

9           3. requires disclosure of privileged or other protected matter, if no  
10 exception or waiver applies; or

11          4. subjects a person to undue burden.

12          (2) *When permitted.* To protect a person subject to or affected by a  
13 subpoena, the issuing court may, on motion, quash or modify the subpoena if  
14 it requires:

15          1. disclosing a trade secret or other confidential research, development,  
16 or commercial information; or

17          2. disclosing an unretained expert's opinion or information that does  
18 not describe specific occurrences in dispute and results from the expert's study  
19 that was not requested by a party.

20          3. a person who is neither a party nor a party's officer to incur  
21 substantial expense to travel more than 50 miles to attend trial.

22          (3) *Specifying conditions as an alternative.* In the circumstances  
23 described in rule 1.1701(4)(d)(2), the court may, instead of quashing or  
24 modifying a subpoena, order appearance or production under specified  
25 conditions if the serving party:

26          1. shows a substantial need for the testimony or material that cannot  
27 be otherwise met without undue hardship; and

28          2. ensures that the subpoenaed person will be reasonably  
29 compensated.

30          **1.1701(5) Duties in responding to a subpoena.**

31          a. *Producing documents or electronically stored information.* These  
32 procedures apply to producing documents or electronically stored information:

33          (1) *Documents.* A person responding to a subpoena to produce  
34 documents must produce them as they are kept in the ordinary course of  
35 business or must organize and label them to correspond to the categories in  
36 the demand.

37          (2) *Form for producing electronically stored information not specified.* If a  
38 subpoena does not specify a form for producing electronically stored  
39 information, the person responding must produce it in a form or forms in  
40 which it is ordinarily maintained or in a reasonably usable form or forms.

1           (3) *Electronically stored information produced in only one form.* The  
2 person responding need not produce the same electronically stored information  
3 in more than one form.

4           (4) *Inaccessible electronically stored information.* The person responding  
5 need not provide discovery of electronically stored information from sources  
6 that the person identifies as not reasonably accessible because of undue  
7 burden or cost. On motion to compel discovery or for a protective order, the  
8 person responding must show that the information is not reasonably accessible  
9 because of undue burden or cost. If that showing is made, the court may  
10 nonetheless order discovery from such sources if the requesting party shows  
11 good cause, considering the limitations of rule 1.504(1)(b). The court may  
12 specify conditions for the discovery.

13           ***b. Claiming privilege or protection.***

14           (1) *Information withheld.* A person withholding subpoenaed information  
15 under a claim that it is privileged or subject to protection as trial-preparation  
16 material must:

- 17           1. expressly make the claim; and  
18           2. describe the nature of the withheld documents, communications, or  
19 tangible things in a manner that, without revealing information itself privileged  
20 or protected, will enable the parties to assess the claim.

21           (2) *Information produced.* If information produced in response to a  
22 subpoena is subject to a claim of privilege or of protection as trial-preparation  
23 material, the person making the claim may notify any party that received the  
24 information of the claim and the basis for it. After being notified, a party must  
25 promptly return, sequester, or destroy the specified information and any copies  
26 it has; must not use or disclose the information until the claim is resolved;  
27 must take reasonable steps to retrieve the information if the party disclosed it  
28 before being notified; and may promptly present the information to the court  
29 under seal for a determination of the claim. The person who produced the  
30 information must preserve the information until the claim is resolved.

31           **1.1701(6) *Duties of issuer of subpoena; producing copies of materials***  
32 ***obtained by subpoena.*** When a party on whose behalf a subpoena under rule  
33 1.1701(1) has been issued thereby creates or obtains copies of designated  
34 electronically stored information, books, papers, documents or tangible things,  
35 that party shall make available a duplicate of such copies at the request of any  
36 other party, who shall be responsible for payment of the reasonable cost of  
37 making the copies.

38           **1.1701(7) *Contempt.*** The issuing court may hold in contempt a person  
39 who, having been served and if necessary been provided fees and traveling  
40 expenses allowed by law, fails without adequate excuse to obey the subpoena.  
41 A nonparty's failure to obey must be excused if the subpoena purports to  
42 require the nonparty to attend or produce at a place outside the limits of rule  
43 1.1701(4)(d)(1)2.



**Rule 1.1901 – Form 12: Court Reporter Memorandum and Certificate**

**IN THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY**

<p>_____ Plaintiff/Petitioner,  vs. _____ Defendant/Respondent.</p>	<p>No. _____</p> <p><b>COURT REPORTER MEMORANDUM AND CERTIFICATE</b></p>
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**COURT REPORTER MEMORANDUM**

**(The court reporter shall file this memorandum with the district court clerk.)**

**Appearances:**

For Plaintiff/Petitioner \_\_\_\_\_

For Defendant/Respondent \_\_\_\_\_

Other \_\_\_\_\_

**Information required by Iowa Rule of Civil Procedure 1.903(3):**

I \_\_\_\_\_ (*insert name*) am providing the following information as required by Iowa Rule of Civil Procedure 1.903(3):

1. The type of proceeding that was reported: \_\_\_\_\_

2. The date(s) on which the proceeding occurred: \_\_\_\_\_

3. The name of the court reporter who reported the proceeding: \_\_\_\_\_

4. The name of the judge who presided over the proceeding: \_\_\_\_\_

5. The reporting fee for the proceeding: \_\_\_\_\_

6. We, the undersigned judge before whom the above-entitled case was tried, and the official court reporter who, by order of the court, reported the same, do hereby certify that the above and foregoing is the report of the whole proceedings upon the trial and/or hearing of the above-entitled cause made and taken pursuant to the order and direction of the court,

in accordance with Iowa Code section 624.10.

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

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*(Signature of Court Reporter)*

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*(Signature of Judge)*

Rule 1.1901 – Form 13: Subpoena Form to Testify at Deposition or Produce Documents

THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY

)  
)  
)  
)  
)  
)

No. \_\_\_\_\_

**SUBPOENA TO TESTIFY AT A DEPOSITION  
OR TO PRODUCE DOCUMENTS IN A CIVIL ACTION**

To: \_\_\_\_\_

☐ **YOU ARE COMMANDED** to appear at the time, date, and place specified below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other person who consents to testify on your behalf about the following matter, or those set forth in an attachment:

Place: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

The deposition will be recorded by this method: \_\_\_\_\_

☐ You or your representative must also bring with you to the deposition the following books, documents, electronically stored information, or tangible things, and permit their inspection, copying, testing, or sampling of the material:

Form of electronically stored information to be produced: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Clerk of the District Court

OR

\_\_\_\_\_  
Attorney's signature

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at \_\_\_\_\_. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

The name, address, e-mail, and telephone number of the attorney representing (*name of party*) \_\_\_\_\_

\_\_\_\_\_, who issues or requests this subpoena:

\_\_\_\_\_

### PROOF OF SERVICE

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

- ☐ I personally served the subpoena on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or
- ☐ I left the subpoena at the individual's dwelling house or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person residing therein who is at least 18 years old; or
- ☐ I served the subpoena on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or
- ☐ I returned the subpoena unexecuted because \_\_\_\_\_; or
- ☐ Other *(specify)*:

### WITNESS FEES

- ☐ No witness fee requested or required under Iowa Code section 622.74.
- ☐ I have tendered to the witness fees for one day's attendance in the amount of \$ \_\_\_\_\_ and the  
mileage allowed by law in the amount of \$ \_\_\_\_\_, for a total of \$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
Server's signature

\_\_\_\_\_  
Printed name and title

\_\_\_\_\_  
Server's address

Additional information regarding attempted service, etc.:

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a genuine copy of the foregoing document was served upon the persons  
named below and at the address indicated on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the following method \_\_\_\_\_  
\_\_\_\_\_:

Name and address of party or attorney: \_\_\_\_\_

\_\_\_\_\_  
Signature of server

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**Iowa Rules of Civil Procedure 1.1701(4) and 1.1701(5)**

**1.1701(4) *Protecting a person subject to a subpoena.***

*a. Avoiding undue burden or expense; sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.

*b. Command to produce materials or permit inspection.*

(1) *Appearance not required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(2) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

*c. Attendance.* Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

*d. Quashing or modifying a subpoena.*

(1) *When required.* On timely motion, the issuing court must quash or modify a subpoena that:

1. fails to allow a reasonable time to comply;

2. requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend trial anywhere within the state in which the person is served with a subpoena;

3. requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

4. subjects a person to undue burden.

(2) *When permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

1. disclosing a trade secret or other confidential research, development, or commercial information; or

2. disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

3. a person who is neither a party nor a party's officer to incur substantial expense to travel more than 50 miles to attend trial.

(3) *Specifying conditions as an alternative.* In the circumstances described in rule 1.1701(4)(d)(2), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

1. shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

2. ensures that the subpoenaed person will be reasonably compensated.

**1.1701(5) *Duties in responding to a subpoena.***

*a. Producing documents or electronically stored information.* These procedures apply to producing documents or electronically stored information:

(1) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(2) *Form for producing electronically stored information not specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(3) *Electronically stored information produced in only one form.* The person responding need not produce the same electronically stored information in more than one form.

(4) *Inaccessible electronically stored information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of rule 1.504(1)(b). The court may specify conditions for the discovery.

*b. Claiming privilege or protection.*

(1) *Information withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

1. expressly make the claim; and

2. describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(2) *Information produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

Rule 1.1901 – Form 14: *Subpoena Form to Testify at Hearing or Trial*

THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY

)  
)  
)  
)  
)  
)

No. \_\_\_\_\_

**SUBPOENA TO APPEAR AND TESTIFY  
AT A HEARING OR TRIAL IN A CIVIL ACTION**

To: \_\_\_\_\_

**YOU ARE COMMANDED** to appear in the Iowa District Court for \_\_\_\_\_ County at the time, date, and place specified below to testify at a hearing or trial in the above case. When you arrive, you must remain in the court until a judge or court officer allows you to leave. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other person who consents to testify on your behalf about the following matter, or those set forth in an attachment:

Place: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

You must also bring with you the following books, documents, electronically stored information, or tangible things:

Form of electronically stored information to be produced: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Clerk of the District Court

OR

\_\_\_\_\_  
Attorney's signature

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at \_\_\_\_\_. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

The name, address, e-mail, and telephone number of the attorney representing (name of party) \_\_\_\_\_

\_\_\_\_\_, who issues or requests this subpoena:

\_\_\_\_\_

### PROOF OF SERVICE

This subpoena for (*name of individual and title, if any*) \_\_\_\_\_  
was received by me on (*date*)\_\_\_\_\_.

- ☐ I personally served the subpoena on the individual at (*place*) \_\_\_\_\_  
\_\_\_\_\_ on (*date*) \_\_\_\_\_; or
- ☐ I left the subpoena at the individual's dwelling house or usual place of abode with (*name*) \_\_\_\_\_  
\_\_\_\_\_, a person residing therein who is at least 18 years old; or
- ☐ I served the subpoena on (*name of individual*) \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of (*name of organization*) \_\_\_\_\_  
\_\_\_\_\_ on (*date*) \_\_\_\_\_; or
- ☐ I returned the subpoena unexecuted because \_\_\_\_\_; or
- ☐ Other (*specify*): \_\_\_\_\_

### WITNESS FEES

- ☐ No witness fee requested or required under Iowa Code section 622.74.
- ☐ I have tendered to the witness fees for one day's attendance in the amount of \$ \_\_\_\_\_ and the  
mileage allowed by law in the amount of \$ \_\_\_\_\_, for a total of \$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
Server's signature

\_\_\_\_\_  
Printed name and title

\_\_\_\_\_  
Server's address

Additional information regarding attempted service, etc.: \_\_\_\_\_

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a genuine copy of the foregoing document was served upon the persons  
named below and at the address indicated on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the following method \_\_\_\_\_  
\_\_\_\_\_:

Name and address of party or attorney: \_\_\_\_\_

\_\_\_\_\_  
Signature of server

---

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**Iowa Rules of Civil Procedure 1.1701(4) and 1.1701(5)**

**1.1701(4) *Protecting a person subject to a subpoena.***

*a. Avoiding undue burden or expense; sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.

*b. Command to produce materials or permit inspection.*

(1) *Appearance not required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(2) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

*c. Attendance.* Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

*d. Quashing or modifying a subpoena.*

(1) *When required.* On timely motion, the issuing court must quash or modify a subpoena that:

1. fails to allow a reasonable time to comply;

2. requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend trial anywhere within the state in which the person is served with a subpoena;

3. requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

4. subjects a person to undue burden.

(2) *When permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

1. disclosing a trade secret or other confidential research, development, or commercial information; or

2. disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

3. a person who is neither a party nor a party's officer to incur substantial expense to travel more than 50 miles to attend trial.

(3) *Specifying conditions as an alternative.* In the circumstances described in rule 1.1701(4)(d)(2), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

1. shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

2. ensures that the subpoenaed person will be reasonably compensated.

**1.1701(5) *Duties in responding to a subpoena.***

*a. Producing documents or electronically stored information.* These procedures apply to producing documents or electronically stored information:

(1) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(2) *Form for producing electronically stored information not specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(3) *Electronically stored information produced in only one form.* The person responding need not produce the same electronically stored information in more than one form.

(4) *Inaccessible electronically stored information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of rule 1.504(1)(b). The court may specify conditions for the discovery.

*b. Claiming privilege or protection.*

(1) *Information withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

1. expressly make the claim; and

2. describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(2) *Information produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.



Rule 1.1901 – Form 15: *Subpoena Form to Produce Documents or Permit Inspection*

THE IOWA DISTRICT COURT FOR \_\_\_\_\_ COUNTY

)  
) No. \_\_\_\_\_  
)  
) SUBPOENA TO PRODUCE BOOKS, DOCUMENTS,  
) ELECTRONICALLY STORED INFORMATION, OR  
) TANGIBLE THINGS OR TO PERMIT INSPECTION OF  
) PREMISES

To: \_\_\_\_\_

☐ **YOU ARE COMMANDED** to produce at the time, date, and place specified below the following books, documents, electronically stored information, or tangible things, and permit their inspection, copying, testing, or sampling of the material:

Place: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Form of electronically stored information to be produced: \_\_\_\_\_

☐ **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated objection or operation on it.

Place: \_\_\_\_\_

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Clerk of the District Court  
OR  
\_\_\_\_\_  
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (*name of party*) \_\_\_\_\_

\_\_\_\_\_, who issues or requests this subpoena:

\_\_\_\_\_

### PROOF OF SERVICE

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)*\_\_\_\_\_.

- ☐ I personally served the subpoena on the individual at (place) \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or
- ☐ I left the subpoena at the individual's dwelling house or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person residing therein who is at least 18 years old; or
- ☐ I served the subpoena on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or
- ☐ I returned the subpoena unexecuted because \_\_\_\_\_; or
- ☐ Other *(specify)*:

### WITNESS FEES

- ☐ No witness fee requested or required under Iowa Code section 622.74.
- ☐ I have tendered to the witness fees for one day's attendance in the amount of \$ \_\_\_\_\_ and the  
mileage allowed by law in the amount of \$ \_\_\_\_\_, for a total of \$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
Server's signature

\_\_\_\_\_  
Printed name and title

\_\_\_\_\_  
Server's address

Additional information regarding attempted service, etc.:

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a genuine copy of the foregoing document was served upon the persons  
named below and at the address indicated on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by the following method \_\_\_\_\_  
\_\_\_\_\_:

Name and address of party or attorney: \_\_\_\_\_

\_\_\_\_\_  
Signature of server

---

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**Iowa Rules of Civil Procedure 1.1701(4) and 1.1701(5)**

**1.1701(4) *Protecting a person subject to a subpoena.***

*a. Avoiding undue burden or expense; sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction, which may include lost earnings and reasonable attorney's fees, on a party or attorney who fails to comply.

*b. Command to produce materials or permit inspection.*

(1) *Appearance not required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(2) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

*c. Attendance.* Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

*d. Quashing or modifying a subpoena.*

(1) *When required.* On timely motion, the issuing court must quash or modify a subpoena that:

1. fails to allow a reasonable time to comply;

2. requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend trial anywhere within the state in which the person is served with a subpoena;

3. requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

4. subjects a person to undue burden.

(2) *When permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

1. disclosing a trade secret or other confidential research, development, or commercial information; or

2. disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

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